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MISREPRESENTATIONS

IN

CAMPBELL'S LIVES

OF

LYNDHURST AND BROUGHAM.

CORRECTED BY

98395

ST. LEONARDS.

LONDON:
JOHN MURRAY, ALBEMARLE STREET.
1869.

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MISREPRESENTATIONS

IN

CAMPBELL'S LIVES OF LYNDHURST AND BROUGHAM.

CORRECTED BY ST. LEONARDS.

When after a social dinner, at which I was present, Sir Charles Wetherell, with much humour, sketched the character of several of the guests; he thus addressed Lord Campbell:— "Then there is my noble and biographical friend who has added a new terror to death." I have lived to find that he has left behind him a new terror to life. After such a publication as the Lives of Lord Lyndhurst and Lord Brougham, no man can be sure that he may not be libelled and misrepresented by an attack published in his lifetime. Fortunately, Lord Campbell did not write my life, and as his Lives of Chancellors have all been published, I did

not expect to meet in his last book any attacks or misrepresentations upon myself, but I was quickly undeceived. In Lord Lyndhurst's life, he observes that Lyndhurst took the new Government of Lord Derby under his special guardianship, ready at all times to support it by praising its measures, and the men who composed it, including Sugden, the new Chancellor, hitherto an object of his special aversion. And again in 1852 he states, that Lyndhurst paid a very just tribute of applause to the Bill for abolishing Masters in Chancery, prepared according to the Report of a Whig Commission, and presented by Lord St. Leonards, the Protectionist Chancellor. Lyndhurst's zeal carried him so far as to pronounce this functionary the model of every cancellarian good quality, accomplishment, and virtue,—declaring that no Government ever was more fortunate in a Chancellor, and that the present occupant of the Woolsack, besides being the greatest of lawyers, was distinguished by his placid temper and his mild and gentlemanly manners. In this statement, apparently without offence, he indirectly

takes from me all credit for the Bill abolishing the Masters' offices, but he gives me the title of the Protectionist Chancellor, and, as we shall presently see, altogether dissented from the character given to me at the close of the quotation, and intended to remind me, that "he hurts me most who lavishly commends;" but whatever Lyndhurst said of me was, I am sure, said in a kindly spirit.

It is in the life of Lord Brougham that Lord Campbell's attacks and misrepresentations as regards myself are to be found. In his first misrepresentation he refers to the habit of the Lord Chancellor to receive openly, being above all disguise, many times in the course of a morning, letters on the Bench, read them, and write, seal, and dispatch answers, *meanwhile listening to the Counsel, and asking them questions.* He then observes that this habit was particularly distasteful to that very petulant though very learned and able Counsel, Sir Edward Sugden (now Lord St. Leonards*), who tried to

* This shows that these observations were written or revised at least 21 years after the scene.

correct it, but was unlucky in the occasion which he took, and the method he employed for the purpose. As the most marked and effectual intimation of his displeasure, he suddenly stopped in the middle of a sentence while the Chancellor was writing. After a considerable pause the Chancellor, *without raising his eyes from the paper*, said, Go on, Sir Edward, I am listening to you. Sugden: I observe that your Lordship is engaged in writing, and not favouring me with your attention. Chancellor: I am signing papers of mere form. You may as well say that I am not to blow my nose or take snuff while you speak. Sir Edward sat down in a huff, but on this occasion he was laughed at, and the Chancellor was applauded.

Now what occurred in Court at least 21 years before this graphic account was written or prepared for publication, and at which the writer was not present, did not raise any laugh at my expense, or any applause of the Lord Chancellor. I had no unkind feeling towards him; he had whilst I was in the other Court, spoken to the Bar of me in high terms, and frequently sent me

down notes to ask me to dinner, to meet one or two Members of the Cabinet. I now desire to speak kindly of him, and not add to the pain which Lord Campbell's life of him must have inflicted on his family; but I must state the plain facts. His biographer speaks of him as being above all disguise, and that while reading and writing he listened to the Counsel and asked them questions. No doubt at that time he did not disguise his occupation. Indeed, how could he? A man would come into Court with something like a large mahogany dinner-tray loaded with letters and papers of all sorts, which were placed before the Chancellor, and to which he directed his attention, tearing up very many, and throwing down the torn paper, which led to the remarks upon him by the "Times." When a Counsel has, as he is bound to do, made himself master of his case, and is endeavouring to make the Judge understand it, and more especially where the Judge is new to the law of the Court, nothing can be more painful than to find that the Judge is directing his attention wholly to other things, and that his address is in truth not

listened to. His anxiety is not removed if the Judge every now and then asks a question, to show that he is attending to the argument, and the Counsel knows it to be founded in error. In truth, the Chancellor's proceeding was altogether inconsistent with a due administration of justice. My position was a painful one. I intended no disrespect to the Court, but I did intend to establish the right of Counsel to demand the attention of the Court. Lord Brougham several times asked me to go on, but I declined to do so. If there was any laughter, of which I have no recollection, it assuredly was at the Chancellor's statement, that he supposed he must not blow his nose or take a pinch of snuff. The statement that I was laughed at, and the Chancellor applauded, is wholly untrue; there was not, and indeed there could not be, such a demonstration. Now, then, what was the result? The Chancellor, to his great credit, never afterwards had letters or papers brought into Court; yet he was so far from being above all disguise, that when, now and then, he did write a letter, he did so on his open note-book, and then dropped it on the floor

beneath, and an officer would come in, and looking at the Bar, would dip his hand into the opening, pick up, and carry away the letter. This "seeing I never seemed to see." Huff, on my part, there was none. My conduct no doubt was painful to the Chancellor at the time, but he, the Bar, and the public benefited by it. His private mode of now and then writing a letter was evidently from a desire to avoid any further cause of complaint, and none was ever called for.

Lord Campbell's next attack upon me is in Brougham's life, under the date of 1833. He states that in the Court of Chancery, where the Chancellor was quite a novice, he had counted on the support of Horne, the Attorney General, but that speculation turned out most unfortunate. Mr. Attorney was opposed by Sugden, a Tory lawyer, infinitely superior to him in capacity and acquirement, and eager, for personal and political reasons, to expose the inexperience of the Whig Lord Chancellor. One contest between them, in which the learned Counsel was compared by the Lord High Chancellor in plain terms to a bug, gave rise to many

newspaper paragraphs, and many caricatures, and is now sometimes alluded to when he has become an ex-Chancellor. The close of this statement shows that the passage must have been written at least 20 years after the attack upon me, but no doubt from previous notes.* The object of the writer manifestly was, by the naked statement of Lord Brougham's language, and the quotation from the "Times," to fix upon me an odious or a ridiculous nickname for the remainder of my life. His object was to strike *at me.* This he dared not do during our joint lives; but it might be partially accomplished by leaving his book as a legacy, to be published after his own death, without regard to what was due to me if living; and this has accordingly been accomplished by the publication before me;

* This note is added. "The 'Times' of 28th July 1832 suggested another comparison not quite so contemptuous *for this enemy of the Lord Chancellor.* Has Sir Edward Sugden no friend to tell him that the *cock sparrow* cannot contend with the *eagle?*" The two last italics are in the book. As the opinion of the "Times" is quoted, I may be allowed to state that both before I became Chancellor in England, and during my Chancellorship, I received the spontaneous and effective support of that powerful journal.

the objectionable word is printed in italics, and the observation from the "Times" carefully preserved in a note.

Lord Campbell knew that for many years Lord Brougham and I were on terms of friendship, but, as his book would not be published until after Brougham's death, he was safe in reviving in its most odious form an attack which Lord Brougham had lived to regret and to atone for. I can venture to say that nothing would have pained him more than the statement I am commenting on. It may be observed, that whilst Lord Campbell's account of this important attack is confined to the most objectionable word in the Chancellor's speech, which is now printed in italics, every speaker in the debates in the Commons, while speaking strongly against the expressions in the speech, carefully avoided quoting that most objectionable one which Campbell has left as a legacy behind him. It will be observed that not a word is said of my defence. Now compare this statement with the following in p. 526 of the book: Lord Campbell observes that Lyndhurst,

although talking in private with the most unbounded license of all things and all men, was exceedingly cautious as to what he said in debate, and he had not any personal conflict with him; but Brougham for some time, in alluding to him, Campbell, persisted in his reckless dictatorial tone. To the surprise of the House, notwithstanding his superior reputation and rhetorical powers, he boldly stood up to Brougham and taught him to respect him. These logomachies, by the assistance of newspapers and caricatures, amused the public at the time, but would have little interest for posterity. In contests, therefore, between the Chancellor, and himself, he took care to represent his own power, and not to leave the shadow of a sarcasm to posterity; but I may observe that he mistook when he supposed that these contests amused the public. They were universally condemned, and they acted so powerfully upon me as to make me resolve if ever I were in office never to get into an unseemly contest, and I never have.

The book has furnished another explanation

why Campbell gave to his readers only that part of the Chancellor's speech which he thought would wound me most. The other sarcasms were not omitted from tenderness to me. He knew that in another part of his book he had introduced in full the like sarcasms by the Chancellor, in a speech he made as Counsel in 1822, which, in the opinion of Campbell, was by far the best he ever delivered, either at the Bar or in Parliament, and Campbell felt that he could not venture to repeat them in his attack upon me. The action was on a question of libel against the clergy of Durham. Brougham, in preparing his speech for the defence, said to a friend, jocosely no doubt, that he was distilling venom for the Durham clergy, and certainly his distillation was at once nauseous and very powerful.* He so managed, Campbell informs us, as to draw the eyes of all upon Dr. Phillpotts, the supposed instigator of the prosecution, who was sitting on the Bench near the Judge. In his violent attack on the clergy he said that they did not wound deeply or injure

* The Lives, p. 335.

much, but that was no fault of theirs! without hurting they gave trouble and discomfort. The insect brought into life by corruption and nestled in filth, though its flight be lowly and its sting puny, can swarm and buzz, and irritate the skin and offend the nostril, and altogether give nearly as much annoyance as the wasp, whose nobler nature it aspires to emulate. So that the attack upon me was but the repetition of a like attack upon the Durham clergy 11 years before, when he was Counsel, and for which, after all, he was indebted to Pope.

The bathos, in Campbell's attack, from "the Lord High Chancellor," the only instance, with one jocular exception, in which the solemn title is given to Brougham, to the vile insect to which an antagonist is compared, is very striking! I perfectly understand Lord Brougham's feelings at the time: fresh from the scene of his power, Member for Yorkshire, and suddenly Chancellor of England, he had not shaken off his habits as an advocate and a Member of the House of Commons. His genius and eloquence enabled him to use his great power of sarcasm with ad-

vantage. In the Commons that power was so successfully exercised against any man who offended him, that most men shrunk from a contest with him. When he took his seat in Court he could ill brook any opposition, and at once determined to silence the advocate in his Court who dared to find fault with him in the very Chamber over which he had exercised so much power; and with deep sarcasm ready at his hand, and uttered with impunity when an advocate, he at once forgot his new position of Chancellor, and poured out his stale venom as if he were still an advocate endeavouring by sarcasm to crush his opponent. He lived to act more wisely and more kindly.

I now return to Campbell's charge against me. The charge is, that for personal and political reasons I was eager to expose the inexperience of the Whig Lord Chancellor, and that in one contest between us, "the Lord High Chancellor" in plain terms applied to me the language complained of. This, therefore, must mean a contest between us as Lord Chancellor and Barrister; and it is treated as a

matter of no consequence except so far as it showed my alleged misconduct, and the rebuke which I received. With the exception of the language used by the Lord Chancellor, I cannot refrain from characterising the whole of this statement as a malignant falsehood. There was no contest between us as Lord Chancellor and King's Counsel, as the statement in the book would lead the reader to believe, and I never did expose the inexperience of the Whig Lord Chancellor, or take advantage of his inexperience in any manner. His biographer notices that during an argument he would make remarks which showed that he had not mastered the case; and this is true, but I left them unnoticed, and carefully avoided observing or correcting them. We were opposed in politics, and I could not approve of his acts when he first was appointed Lord Chancellor, but I never allowed this to have any bearing on my conduct in Court.

The supposed contest which Lord Campbell treats so lightly was a serious attack, by the Lord Chancellor in the House of Lords, on me,

a Barrister of his Court, for my acts as a Member of the House of Commons, and having no bearing on any contest between us in Court. Of course this was well known to Lord Campbell, and by every public man. Campbell indeed was then Solicitor General, and, as we shall see, omitted to inform the Lord Chancellor of the notice I had given to him. The charge involved a great constitutional question, which engaged the attention of both Houses of Parliament, and it also brought under consideration attacks made in one House on a Member of the other;—in this case the language of the Lord Chancellor in the Lords on my conduct as a Member in the Commons.

The Lord Chancellor had not given me any intimation of his intended attack. The day he made the speech, I was addressing him as Counsel in a cause, when suddenly he rose, and, instead of intimating to me, as usual, that he was obliged to go elsewhere, he left me standing in the middle of a sentence. I could not understand such conduct, but it did not strike me that he could possibly show his displeasure in

Court for any conduct of mine in the House of Commons, where I was as free to act as he was in the Lords.

It appears from "Hansard"* that I had given notice to the Solicitor General, to be communicated to the Lord Chancellor, that it was my intention to mention in the House the subject of certain vacant sinecures, not knowing that they had been filled up. It was attempted to ground a complaint that I had not given any notice of my intention. The Solicitor General (the noble biographer) admitted the notice, but said he did not know that it was directed to the appointment in question, and he had been prevented, under peculiar circumstances, from seeing the Lord Chancellor upon the subject. This was on the 25th July. The offices, it appears, had been filled up with a brother of the Lord Chancellor. When I asked the question as to the offices, I stated that I had not made a personal attack upon the Lord Chancellor; I had asked the question merely to obtain infor-

* Vol. 14, Third Series, 816. I have found it necessary to give what passed, in the Appendix.

mation. The Chancellor's brother had resigned his seat in Parliament for the purpose of filling the offices. Sir Robt. Peel, Sir Chas. Wetherell, Mr. Robinson, Mr. Wason, Sir F. Burdett, Mr. Alderman Venables, all considered, after what had passed, that the appointment was provisional only; Sir Frederick Trench thought it was permanent. Lord Althorp tried to establish that I had made a personal attack on the Chancellor. All this passed on the 25th July. On the 26th, I again mentioned the subject, in order to show that I had given proper notice, according to the practice of the House. I alluded to what I had heard had passed in the other House that evening, and that some of the Chancellor's observations were directed against me: I said that I waited to see them from a more authentic source, and I would then defend myself against the sarcasms of the noble and learned Lord, or against those of any other person who might have attacked me.*

On this same 26th July, the Lord Chancellor in the House of Lords, after he had left the

* 14 Hans. Third Series, 815. Appendix to this volume.

Court in the manner described, made an elaborate prepared speech upon Chancery sinecures, and vindicated his own conduct, and then referring to the question that I had asked in the Commons, he said: it surely never entered into the head of any man having brains, that he should refrain from taking possession of some of the emoluments of office falling vacant before any regulation had been adopted for placing them on a better footing.* He then, in well-considered words, made an inexcusable attack on me, in language ill-suited to his position and the place in which he spoke. I only heard of this speech from a friend as I was riding down to the House of Commons.

The next day, when in possession of the Lord Chancellor's speech, I went down to the House of Commons early; it was hardly formed when I arrived. Peel was not there, but Goulburn was, and he, at my request, started for Peel, who arrived quickly. I was deeply sensible of their kindness. I intended to rest my defence upon the improper language of the attack upon

* 14 Hans. Third Series, 738. 742.

me, and upon what I deemed a question of privilege. I was called to order by Mr. Stanley, and the Speaker held I was out of order.* I insisted that I was not out of order, and by the courtesy of the House I proceeded. I spoke in the strongest terms of the language of the speech, and concluded by declaring that, for once and for ever, I had lost all personal respect for the Lord Chancellor. An animated debate followed.† There was no further call to order, but every Member spoke freely on the subject without interruption. Sir Robert Peel's first observation was, that he had just read the expressions of which his honourable and learned

* I had the good sense to avoid reading to the House, as I was several times called upon to do, the sarcasms of the Chancellor. My reason was obvious enough; but taking advantage of my silence, it was urged that I was out of order, for I had not stated that any charge was made against me, but merely that I objected to some expressions in the other House. But although I was allowed to proceed, I felt I was acting against the decision of the Speaker, and I therefore confined myself to the language used by the Lord Chancellor, being assured that my friends would rely also on the other ground, which they amply did.

† 14 Hans. Third Series, 827—850, and in the Appendix to this volume.

friend complained, and he had read them with the greatest pain. Mr. Stanley, at once interrupting him, said he had seen the noble Lord that morning, and he complained of the manner in which he was reported; and Lord Althorp said that the noble and learned Lord had called on him to say that the report in that paper and in another paper was very incorrect. This led to messengers going backwards and forwards between the two Houses, and we were soon informed that the Lords had risen.*

I was strongly supported by Sir Robert Peel, Mr. Goulburn, Sir Robert Inglis, Sir Charles Wetherell, Mr. Robinson, and Sir Henry Hardinge. The latter, in consequence of a statement that the Duke of Wellington was in the House of Lords, and made no objection to the Lord Chancellor's speech, observed that he was satisfied that if his noble friend had been aware

* Sir Robert Peel said that the accuracy of the report was called in question; he hoped it would be so found. It was a report in "The Times" newspaper, and in one respect it had the appearance of accuracy—it was very elaborately given.

of the manner in which his honourable and learned friend put the question to the House of Commons, and if he distinctly heard the epithets applied to his honourable and learned friend by the Lord Chancellor, he knew the gallant nature of his noble friend, and his steady friendship to his honourable and learned friend too well, to believe that he would for a moment have allowed such expressions to pass unnoticed.

I had reason to be perfectly satisfied with the Debate, and was grateful to my friends for their kind testimony and able defence. The House was evidently on our side. As I desired to forget the past, I have never opened these Debates, which of course I read at the time, until the publication of Lord Campbell's book, and I now abstain from calling further attention to the expressions on either side.* I yet may be excused for observing, that it will be found that I did not utter one which, in his defence,

* It is indeed unnecessary to repeat Brougham's, as they were similar to those he addressed to the jury in the Durham clergy case, which are already referred to.

one gentleman might not address to another after such an attack. The result could not but be painful to the Chancellor. It was suggested in the Debate that he should set himself right in the House of Lords, but the subject was, as far as the two Houses were concerned, allowed altogether to drop.

The morning after the Debate I had to open the first case before the Chancellor. I found the large hall in Lincoln's Inn—it was before I had divided it, when Chancellor, into two Courts—filled so as to render it impossible I should reach my place unless the crowd made way for me, which they readily did, and this was repeated for a few mornings, in the hope, no doubt, to witness an open quarrel between the Chancellor and myself. Upon this first morning the Chancellor was already in his seat, with his note-book open before him, upon which his eyes were intently fixed, and I think I may venture to say that he never looked off his book until he rose in the afternoon. I was arguing all the day, as usual, but in a tone probably of independence and dissatisfaction.

The crowds at length dispersed, and business took its ordinary course. There were no bickerings between the Chancellor and myself, but no marks of good feeling. When cases were heard in his private room, he used, of course, to come forward and shake hands with the leading counsel; but now he was always seated in his arm-chair, with his note-book open before him, and he never stirred, but made a slight salute as he sat. He was always making changes, which much deranged business; and just, I think, before Whitsuntide, he declared that he would sit several days before the usual day, which would have debarred the Barristers of their usual, and, as I knew, necessary holiday; and he declared that it was useless for anyone to apply to him for an alteration. I was not in Court, but this was considered to allude to me, as I was always asked by the Bar to appeal to him when he made an order of which they complained. Now several men came to me, and asked me to appeal for them to the Chancellor. Under existing circumstances I did not

like to undertake this duty, but I was so much pressed that I assented.

I must here observe that I had had several indications that the Government were desirous to get me to accept preferment from them. At length Lord Lyndhurst, then Chief Baron, came into my room, and said, as he walked in, "'*Non meus hic sermo.*' I have refused to come to you, although desired by the Chancellor, but now he has written to me, and I cannot refuse to do as he desires. He desires me to offer you the place of a Baron of the Exchequer (arrangements being made to prevent your being required to go Circuit, or act as a common-law Judge), the Privy Council, and the Deputy Speakership of the House of Lords. I answered at once, that I declined to accept the offer. But I said, "I should like to send a message by you, but I do not ask you to take it." He replied that he would take anything I had to send. Then said I, "Tell the Chancellor that whilst things remain as they are, there is nothing which he can ever have to offer which I would

accept;" and there the matter seemed to drop. Lyndhurst went the Circuit without delivering my message to the Chancellor, or to me the Chancellor's letter.

In execution of my promise to the Bar, I wrote a note to the Chancellor's secretary, to say that I wished to have an interview with the Chancellor on the part of the Bar. When I entered his room, instead of sitting in his arm-chair as usual, he was standing; and coming towards me with both hands open, he saluted me as an old friend. "Well," he said, "what brings you here?" I told him the objection to his order, and I added that I did not come on the part of the Bar to ask a favour, but to demand a right. He said, that was the true way of putting it. I said, I was sure he would think so. "I will," he added, "have it looked into." "I think I can save you the trouble; I have investigated it with some pains." Then he said, "Let it be so."

Drawing a little back, I said, "I am afraid, before I leave this room, I must say what may be disagreeable to you." "Good God! what

can you have to say that is disagreeable to me?" "When," I said, "I entered this room, you held out both your hands; taken by surprise, I accepted one of them. I am compelled to tell you that whilst things remain as they are, those are terms upon which we cannot meet." "Good God! have you not seen Lyndhurst? have you not received a letter from me?" I told him of my interview with Lyndhurst, and that I had received no letter. "Well, then," he said (it was so like him), "I will give you secondary evidence of its contents. At eight o'clock in the morning, in bed, I called for pen, ink, and paper, and I wrote a letter to Lyndhurst, but which was intended for you, in which I told him that I should think it the best act of my legal administration if I could prevail upon you to accept the offers I desired him to take to you." I remained perfectly still. He then said, "I think if I had been in your place I should have thought such an offer and such a letter a full satisfaction." Still I remained silent. Gathering himself up, and turning half away, he said, "Well, I think when a man feels that he has

done wrong, the sooner he says so the better." I went up to him, gave him my hand, which he grasped kindly, and I said, "I am much obliged to you, and I shall never again think upon what has passed." He then said I should have the letter intended for me through Lyndhurst. I assured him that I did not desire it; but he persisted, and accordingly wrote to Lyndhurst, who was on Circuit, and he sent the letter to me, excusing himself for having left town without showing me the letter, but desiring me to return it to him. I accordingly did so, but informed him that, as Brougham stated the letter was intended for me, I had kept a copy of it.

From that time to his death Brougham and I were good friends; and I cannot but look with displeasure at Campbell's life of him. When he heard that I had declined to accept the Great Seal a second time, he laid hold of my two arms in the House of Lords, which was then not quite made, and, with tears in his eyes, urged me to retract my refusal. He sent me copies of all his books, and showed me every mark of

good will. His habit of sitting on the Conservative benches, while voting with the other side, placed him for a very long time next to me, and we were always on friendly terms, although of opposite politics. Nothing but the attack of his biographer, on both him and myself, could have induced me to give publicity to what passed between us. The same reason induces me to add a few of the many of his letters to me, to prove his good feelings towards me; they otherwise would never have been published. If Lord Campbell's statement of Lord Brougham's dislike to me were true, his letters would do him no credit. But I give credit wholly to the letters and to his conduct, which harmonised with them, and none to his calumniator. I can truly assert that Lord Brougham's kind feelings towards me were fully reciprocated by me. Whilst I was in Ireland he, without any application from me, undertook my defence in the Lords in regard to a letter written by me as Chancellor, of which parts had been much criticised, but it was loudly cheered when he read the whole of it to the House. He added to this great act of

kindness by writing to me from the Privy Council the following letter:

My dear Chancellor,

As I am told that one newspaper at least so entirely misrepresents my defence of you last night as to say that I held that your act alone as good and your reasons for it as bad, I write to relieve your mind from all such impression—*I said the very reverse* [the italics are Brougham's], and only said that Lansdowne had narrowed down the whole charge to this, 'The act is right, the reasons bad.' It was my representation of his argument, and I at once met him on the ground thus narrowed, and proceeded to issue, defending your reasons—which I now deemed to be impugned—as well as your act, which I deemed to be now admitted. Indeed, Campbell complained of my taking a higher ground than the Government did. As you know all clients are apt to be dissatisfied with their counsel, I am anxious to relieve myself from any charge of having put your defence too low.

98395

Look, by the way, at G. Ponsonby's declaration of his course of conduct while Chancellor in 1806. He said, in June 1816, that he never gave any reason at all.

Yours ever sincerely,

H. BROUGHAM.

I shall add a few more of his letters to show what terms we were upon.

"Grafton Street,

"5 February 1857.

"My dear Sir Edward,

"I have just received your kind letter, with the longer document [this refers to a cause upon which he states his views]. Let me say, in consequence of a rumour which reached me of some one having represented me as undervaluing your most able, most learned, and most interesting book (I mean your criticism on the House of Lords), that there never was anything more contrary to the fact than such a statement. I had intended to write to you to deny it, and also to express my gratitude for the pleasure I had received from the perusal of the work

before I received your letter this morning. I have uniformly said that I compared it to Bentley's 'Phalaris,' which no scholar can lay down when he has taken it up, and which interests even readers who are no scholars. However, I must, add that as to your *conclusions*, I of course 'stand by my order.' I daresay some jokes which were had in the House of Lords about your *library* at *Dublin* being ill furnished, &c., gave rise to the absurd report.* I beg my respects to Lady S., and believe me sincerely yours,

H. BROUGHAM.

4 Grafton-street,
17th February 1857.

My dear Friend,

I assure you I feel extremely annoyed at leaving town without having seen you, which I daily hoped to do at the House, and to thank you for your most valuable present, and to beg

* This refers to my statement in the Preface to the 13th edition of my book on "Purchases," that, at starting, my shelves were but scantily furnished. My library in Dublin was well furnished from mine in Lincoln's Inn.

your acceptance in return—a much inadequate return—of my last three volumes. Your book (I mean your new edition) is most welcome. The 1,200 cases astound me! I thought I could work a little bit, and poor Wilde used to talk of the hard labours which I called my holidays. But truly you beat us all to nothing, I hope and trust that ill-health has had no share in keeping you away from us, and that when I return (D.V.) at Easter, I shall find you threatening to require my issuing an injunction again as to riding, which I may be obliged to make perpetual if I find it necessary.

Believe me ever
Sincerely yours,
H. BROUGHAM.

I cannot admit that you have not lost much in the way of amusement by your absence.

Writing to me from Hôtel Meurice, Paris, on the last day of 1860, he wrote at large on Berryer, and expressing his sorrow for the sufferings of one of my family; and hoping that

the new spring would be some compensation to us for the past, he adds, of which I heartily wish you and yours all the good wishes.

Very sincerely,

H. BROUGHAM.

Brougham,

4th November 1860.

My dear Friend,

I grieve to see from the papers that you are unwell, but I hope and trust not seriously, as the paper represents, and I send to amuse you in your recovery a copy of my address at Glasgow, of which I only got seven copies.

Yours ever most sincerely,

H. BROUGHAM.

I am preparing to seek, as usual, a milder climate in the South, where I wish you would come also.

I may add, that he several times pressed me to pay a visit to Brougham as well as to the South.

A postscript at the head of a letter, dated from Brougham, 27th August 1861, "I heard you often spoken of with respect and regard."

My dear S.,

A thousand thanks for the volume. It is really a library of law and equity in itself; it is a *corpus juris*. I have only had time to turn over the titles of it, and I see much in abundance which had escaped me.

Yours most sincerely,

H. BROUGHAM.

To return once more to Lord Campbell's book, he states that at the opening of the Session in 1852 Brougham was at his post, and without any ulterior object began badgering the Lord Chancellor, and joined with Lyndhurst in obstructing the law reform proposed on the part of the Government, and Campbell proceeds to show to what a "pitch of fractiousness" they proceeded. When, he adds, Lord John Russell fell, Brougham imagined that his opposition had materially contributed to the change, and for

this he quickly felt remorse. Instead of "Jonathan Wilde," he now saw on the Woolsack Sugden, whom he *disliked more heartily*. Brougham bore the misfortune with apparent magnanimity. In public he affected to be rather cordial with the new Lord Chancellor, but he poured out his griefs pathetically into the ear of a private friend. The truth was, that he stood considerably in awe of Sugden, who was infinitely superior to him in professional knowledge, and had far higher reputation as a lawyer, while infinitely inferior to him in eloquence and in liberal acquirements. When he (Campbell) returned from the Spring Circuit in April, he found, he says, that the new Chancellor had been setting all the law lords at defiance, and had threatened to repeal a Bill which he had introduced, as head of the Real Property Commission, to regulate the execution of wills of real and personal property. He (Campbell) was called in by Brougham, and "we gave our noble and learned friend" a lesson which made him comparatively modest

and humble during the remainder of his short tenure of office. Thus far Lord Campbell.

This statement is damaging to Brougham's reputation, and was intended to damage mine. As far as the facts are before us, every part of the statement is false; we have only Lord Campbell's statement that Brougham's conduct towards me in public was wholly opposed to his real feelings. The private friend in whose ear he is stated to have pathetically poured his griefs, we must understand to have been Lord Campbell himself, so that the statement cannot be disproved. But as all his statements which we can test by evidence prove to be untrue, it is no harshness to conclude that those which rest on his own statements only are equally false.

I now come to this additional charge against me. I had set all the law lords at defiance, and threatened to repeal the Act of 1st Vict. Campbell was called in by Brougham, and they gave me a lesson which made me modest and humble. I would plead guilty to the modesty and humility, because I deeply felt the responsi-

bility of the duties I had undertaken. But the entire charge otherwise is simply false. I had not set any law lord, much less all of them, at defiance, nor had I threatened to repeal the Act of 1st Victoria, nor did Brougham and Campbell give me any lesson whatever.

If Campbell's statement, that I had set all the law lords at defiance should be considered as not confined to my amendment of the Wills Bill, but to refer also to the judicial proceedings of the House, I am furnished by a friend with an answer from the Lords' Journals to that view. I took my seat on the Woolsack on the 4th of March: on the 29th of March Lord Campbell reappeared in the House, after no doubt his absence on Circuit, and when he speaks of the state in which he found things on his return, he of course refers to what had taken place before the latter day. Now the Journals show that seven appeals were heard in the above interval: two were not of sufficient importance to be reported; in one of the reported cases I sat alone, and certainly, therefore, there was no difference of opinion; then

four remain to be accounted for—they were all heard by only two law lords, Brougham and myself, and we entirely agreed in our judgments. If the charge of setting all the law lords at defiance is my conduct in passing the amendments to the Wills Bill, and the charge, no doubt, includes, if it is not confined to that, my answer to it is the following facts.

While I was out of office, I had, in one of my law publications, pointed out the duty of the Government to at once repeal a portion of the Act of 1st Victoria, which required the testator's name *to be signed at the foot or end of the Will.* I can best explain to the general reader by a quotation from my Handy Book what the decisions were in consequence of these words, and what was the operation of the Act which I prevailed upon the Legislature to pass. "Upon this slight foundation, the words above, in italics, it was decided that if there was somewhat more room than enough for the signature between the end of the will and the actual signature, the will was void, so that at last it rather required a carpenter to measure the

distance in each case than a Judge to decide upon the application of the Act. The sad result was, that this law made hundreds of wills void. They were, when attempted to be proved, carried away in basketfuls as valueless." I at once did what I had called upon the preceding Government to perform. I introduced a Bill to amend the Wills Act in that respect. For the operation of my Act I may again refer to my Handy Book. "This great reproach to the law has been removed by an Act for which I am responsible, and it would be difficult now for a man to place his signature so as to render his will void, for it will be valid if the signature be so placed, at, or after, or following, or under, or beside, or opposite to, the end of the will, that it shall appear on the face of the will that the testator intended to give effect by such his signature to the writing signed as his will. The Act has put an end to all difficulty." Now this is the Act upon which Lord Campbell founds his charge against me. I had set all the law lords at defiance, and threatened to repeal the Wills Act. I made no such threat, but I added

two or three clauses to my Bill, further amending, as I thought, the Wills Act, but as objection was made to them I at once struck them out, so as not to endanger my great and principal object. The Debate upon the second reading will be found in Hansard.* It appears that in regard to what I may call the additional clauses, I stated that if any of my noble and learned friends objected to either of these two clauses I would not retain them; but if I should have the concurrence of my noble and learned friends to the first clause, which I expected, I should be very well content. I then stated what steps I might in future take in regard to certain portions of the Wills Act, but no threat of any kind, much less to attempt to repeal the Act. Looking at the report of the Debate, modesty and humility on my part could, I think, no further go. Not an appearance of any defiance. Lord Brougham agreed with me that the first clause should pass, and approved of the course suggested by me of striking out, for the present at least, all but that, and agreed with me that

* 120, Third Series, p. 2.

at all events the first clause should be passed. Lord Cranworth expressed himself in favour of the Bill, and he should not therefore oppose the second reading of it. Lord Ellenborough thought that I was perfectly justified in introducing the Bill, and it was then read a second time. There was no other speaker. This was on the 23rd March 1852. I struck out the clauses objected to, and on the 26th of March the amendments were reported; further amendments were made, and after an observation from Lord Cranworth as to the words used, the Bill was ordered to be read a third time on Monday, and on the 29th of March it was read accordingly, without any debate. Lord Campbell appears from the Journals to have been in the House on that day.* This plain statement refutes all Lord Campbell's charges. The proceedings in the Commons on the Bill have no bearing on the question before us, and therefore I shall only refer to them.† The Bill passed the Commons by a considerable majority, on a

* 120 Hans., Third Series, 2. 171. 683.

† 121 Hans., Third Series, 1234.

division, and ultimately passed with my words as originally framed, but not without a serious opposition in the Commons.

Happily, the fears expressed of its operation were groundless; the Bill has worked admirably; litigation has ceased, and thousands of wills have had full effect given to them, which without the Bill would have been void; and now for all time men's wills cannot be so recklessly set aside, and this particularly applies to the wills of the middle and lower classes. Some time after the Bill had passed I met in London my friend the Judge of the Prerogative Court in Ireland; he told me that the Bill had put an end to his business; he had nothing to do; for I had so provided for every possible case, that no will could be set aside on the ground of the signature not being in the right place.

Campbell was proud of his position as head of the Real Property Commission. He was not appointed to it until I had resisted Lord Lyndhurst's pressure to accept the office; he would take no denial, but I felt that it was impossible for me, with my engagements at the Bar, to give

to the Commission the labour which would be exacted from me. Lord Campbell, who I believe did not know that the office had been offered to me, was in the habit of treating the able Bills which the Commissioners framed as his own. The subjects before the Commission were altogether out of his line of study and practice; and he had no hand in framing the Bills. He converted the heads of one of the Bills in the Report of the Commissioners into a Bill, which of course was laid on one side, and the Bill was drawn elaborately by another hand. One of the learned Conveyancers, who was one of the Commissioners, said to me at the time, speaking of this Bill, that Campbell had no more to do with it than his footman. He seems, from his book, to have taken a great interest in the Wills Bill, but it was prepared by an eminent Conveyancer, a Member of the Real Property Commission, and was, in the improved form in which it passed, brought into the House of Lords in 1837, by Lord Langdale, with an elaborate speech, on the second reading.*

* 36 Hans., Third Series, 963.

I will only refer to one more attack upon me, which escaped my attention until all the precedent part of my defence was written. The biographer, adverting to Lord Brougham's conduct in regard to the codification of the criminal law, says that he had some countenance from Lord St. Leonards, now an ex-Chancellor, who, from being a legal optimist, had suddenly become an ardent reformer, and to gain popularity for his party was willing to join in an experiment which would have thrown the administration of criminal law into confusion. This, which is wholly unfounded in fact, implies that the experiment would lead to the consequence predicted; and that I foresaw it, and with that knowledge I was ready for party purposes to give countenance to so dangerous a measure. I have seldom been more shocked than in reading this atrocious libel from such a quarter. I feel ashamed at having to defend myself against it. Such a charge is best answered by my judicial and political life, and upon that I confidently rely. If I had acted in such a case upon the vile motive attributed to me, I should have deeply disgraced

myself, and the attempt to vindicate my character against the other charges by Lord Campbell would hardly be received with much favour. I may be allowed to state that the mass of papers in my possession shows how much time and attention I bestowed upon the proposed legislation.

I look in vain for any probable cause of Lord Campbell's rancour against me. I effectually opposed the Registration Bill, and I thought that might have been a cause; but that could hardly be; for I find* that in referring in the Lords to the intention to bring a Registration Bill into the House of Commons, he observed that the question had been lately propounded—"Will you register your deeds?" and to that question a right honourable friend of his, Sir Edward Sugden, who was justly considered as one of the brightest ornaments of the profession, had replied, "No."† Now he said, "Yes," &c. Removing this cause, I know of no other.

* 119 Hansard, 182, 5 February 1852.

† The title of my pamphlet was, "Shall we Register our Deeds?" Answer, "No."

He observes, under the date of 1853, that Lyndhurst was likewise very useful this Session in supporting and improving the Bill for the Registration of Deeds respecting Real Property. But although it passed the House of Lords, Lord St. Leonards alone dissenting, it was lost in the Commons, &c. This again is a misrepresentation. The Bill had passed the House of Lords before I was Chancellor, but had been dropped. When it was introduced after I had ceased to be Chancellor, I was aware that I could not, as Lyndhurst said in a sort of loud whisper, as if speaking to himself, ask the House to stultify itself; and yet I feared if I allowed it to pass the Lords without opposition, it might pass in the Commons; I therefore spoke against it, and divided the House. It was, of course, carried; not as represented by Campbell, but by 57 to 24.

Just after the Incumbered Estates (Ireland) Bill passed, Campbell and I dined, as Benchers, at Lincoln's Inn. Leaving the Inn together, I to reach Waterloo Station and he to go to Kensington, we walked arm-in-arm down

the Strand, which was somewhat out of his way, and had much confidential conversation. He appeared to take a lively interest in my administration of the law in Ireland, and expressed his regret that I had not accepted the offer of the Chief Judge of the new Court. I said that I declined to take a lower position in Court than the one I had occupied; besides, the place, with all its novelty and difficulty, was not attended with any income beyond my retiring pension. He expressed the greatest surprise, said it was a mistake, that 10,000*l.* a year would not be too much for me, and that the Government would immediately obtain an Act of Parliament to authorise the grant. I told him that money alone was not the object, but that if they had intended to grant a large salary, they should have provided for it at once, and that nothing would induce me to allow an appeal to Parliament for a large salary to be granted to me. We parted apparently very good friends.*

* I may here mention, that while the Bill was passing, the Government gave some mysterious hints as to the manner in which the Chief Judgeship was to be filled. As soon as it passed, Lord John Russell sent for me and made the offer,

Lord Campbell paid me the neatest compliment on my Handy Book I ever received. On the Bench, as Lord Chief Justice, he said that if it was proposed to pass an Act to declare that everything in the book was law, he would support it. I sent him a copy of my last edition, and he thus acknowledged it.

"Stratheden House,

"July 6th, 1859.

"My dear St. Leonards,

"Accept my warm thanks for the copy of the 7th edition of your *in*valuable Handy Book you

which I of course declined. He said he supposed I knew the nature of the Bill. I answered, it would be singular if I did not, as I was the author of the measure. He looked incredulous. I explained to him that Sir Robert Peel had a scheme for relieving the incumbered estates in Ireland, and he sent it to me for my opinion. (I have it now before me, a long and elaborate paper.) I wrote to him to say that I thought his plan would not work; and I then gave him a sketch of a Bill which would work, but I observed that I did not say that I would pass such a hard measure if I had the power. I considered it, as to property, like the suspension of the Habeas Corpus Act as to person, and, like it, it should not be carried beyond the actual necessity of the case. That letter Sir Robert sent to Lord Clarendon in Ireland, and he sent it to the Government at home, and upon that scheme the Bill was founded, as I think Sir Robert Peel informed me. I understood Lord John Russell to say that he believed some paper was sent.

have had the goodness to send me. A proposal has been made that it should be declared law by Act of Parliament, but this form is quite unnecessary.

"Yours very truly,

"CAMPBELL."

I shall add a few more letters from him, merely to show upon what friendly terms we *appeared* to be.

When he was made Chancellor, I acted with the greatest forbearance towards him, frequently going into his private room and pointing out objections to his Bills, instead of attacking them in the House. There was one most important Bill which he introduced, although he was not the author of it. It contained many amendments of procedure, &c., at common law, and two other clauses with one of form, to which there was no objection.*

But it further enabled the Common Law

* One of these clauses was to extend in certain cases the power to grant injunctions to courts of law, where I, for the first time, had already in one of my Bills given that power to Courts of Equity.

Judges to administer generally equitable relief. This I strongly opposed in the House, and the Bill would have been rejected had he not elected to send it upstairs to a Select Committee. The Committee was a large one, and, of course, so selected as to support the Government, who desired to carry their Chancellor's Bill. The Bill, of course, had been read a second time in the House. When in Committee, I rose and said that, as the Members could not know much about the nature of the case before them, I would, with their permission, draw their attention to the present state of the two jurisdictions of Law and Equity. Lord Kingsdown and several other Members expressed their desire to hear me. Lord Campbell was in the Chair, and he strongly opposed my being heard; he said that the principle of the Bill had been established in the House by the second reading, and therefore it was his duty to commence with the sections of the Bill, the few first clauses of which were those not disputed, which he attempted to do accordingly, but the Committee determined to hear me, and

he was compelled to give way. I occupied some time, and, at the conclusion, Kingsdown and several other Members thanked me for the information I had given to the Committee. We then voted on the sections open to objection, and as there were many sections upon every new rule, I moved to strike them out in a body. I was always supported, and the Chancellor every time had to run his pen through a long list of sections. At last, seeing that he could not prevail, when he put a new rule to the vote without stopping for any action on the part of the Committee, he at once struck out all the sections depending on the rule. This Lord Granville in vain endeavoured to stop. In two sittings, nothing was left of the Equity clauses but two innocent ones and a formal one, to which no one objected,* and although the Chancellor said that he would appeal to the House, he did not do so, and the Bill was passed without those clauses. It is possible that this proceeding may have caused the Chancellor to look upon me as an adversary,

* 23 & 24 Vict. c. 126, sections 1—3.

and have induced him to leave behind him all the sarcasms and misrepresentations he had accumulated against me. I could not have believed it.

At length he died suddenly. Lord Granville came across the floor to me and asked me if I should object to The House being adjourned, out of respect to the late Chancellor. I said I thought it would be quite right, and I would support it. When The House was about to rise, as no one attempted to speak, I thought it became The House to express its regret at the loss which it had suffered by the death of the Chancellor. I made no motion, but I spoke, without a moment's preparation, in favour of the Chancellor. I called the attention of the House to the manner in which he had presided in the House, gave him unqualified praise as a Common Law Judge, softened down his difficulties as an Equity Judge, and expressed my feeling for the sufferings of his family from the suddenness of their bereavement. I do not regret a word that I uttered

I had no intention to criticise Campbell's Lives; and I have looked at them in regard only to my own defence. But in rising from even this slight perusal, I cannot but feel how insignificant is my cause of complaint when England herself has just grounds of lament. With all their faults—and who is without them?—Lyndhurst and Brougham in civil life were two of the men of this age whom she justly admired; she was proud to call them her Sons, and will not allow them to be thrown from the Pedestal upon which she placed them, and upon which they still stand. Their Lives remain to be written.

The following are the Letters before referred to:

"Stratheden House,
"22 August 1859.

"Dear Lord St. Leonards,

"In settling with Lord Lyndhurst the names to be inserted in his Commission about the mode of taking evidence in Equity suits, notwithstanding our deep conviction of the importance of your opinion on such a subject, it was thought that we could hardly ask you to attend as a Commissioner; but I find that there is a disappointment, among those who wish well to the Commission, that your name is not in it, and I beg your permission still to introduce it.

"Without regularly attending the meetings of the Commissioners, you may be able to give us valuable advice, and I am sure that all the Commissioners will receive any opinion you may express, with the greatest deference.

"I remain, yours very faithfully,
"CAMPBELL."

"I leave London to-morrow, and my address will be— "Hartrigge,
"Jedburgh, N. B."

"Dear Lord Chancellor,

"I am much obliged to you for your kind letter. I fully appreciate the motive which induced Lord Lyndhurst and you not to mention to me the intended Commission in regard to the taking of evidence in our Equity Courts. I have never mentioned the subject to anyone, nor has any person mentioned it to me; so that until I received your letter I was unaware that attention had been drawn to the omission of my name in the Commission, although it contains the names of all the other Law Lords. It was obviously impossible to explain why my name was not included, and of course I could have afforded no explanation. However, as the Commission has been published, and to add my name now would call forth further observations, and perhaps explanations, which I think it desirable to avoid, I am clear that it is not advisable to tack my name to the Commission, and I therefore respectfully decline to act. Circumstances have not altered since the Commission issued. If I had agreed to act, I should assuredly have given my earnest attention to the

subject of the inquiry, as a supplement to my labours of 1852, for improving the law and the procedure of our Courts of Equity. My endeavours to that end have been carried on to the last day of the last Session, when my last Bill received the Royal Assent.

"P.S.—Since writing this letter, the noonday's post has brought me a letter by which I learn that Lord Brougham was left out of the Commission without any application to him. This alone would now prevent me from accepting the office of a Commissioner." *

It is seldom that I have kept a copy of any letter written by me. I do not know how this was signed; probably—

Yours faithfully,

ST. LEONARDS.

* The letter was from Lord Brougham; he was much displeased with the omission of our names, and in one of his letters he says that "it can only be a vulgar exhibition of power."

" Stratheden House,

" 30 August, 1859.

"My dear Lord St. Leonards,

" We should have done better (I now admit) if we had asked Brougham and you whether you would consent to your names being introduced into the Commission; but I am sure that the omission did not arise, in the most remote degree, from any disrespect to either of you.

" Brougham has thus answered my application to him to allow his name, with yours, to be now added;—'By all means do as you suggest about the Commission; but, although of course I shall attend it in London, I cannot undertake to be there till Parliament meets. If anything occurs to me, I will communicate it through you.'

" I do most earnestly request that you too will overlook the mistake which was made, and allow the Commission to be complete, as we should have been glad from the beginning that it should have been.

" I am here from a summons to attend a

Cabinet, and I return immediately to Hartrigge.

"Yours very truly,

"CAMPBELL.

"I ought to have thanked you for your very courteous answer to my letter.—C."

"Stratheden House,

"17th October 1859.

"Dear Lord St. Leonards,

"I have had the satisfaction to put the Great Seal to a new Commission including your name, and I have directed the Secretary to send you a copy of the returns made to our questions about Equity evidence. I do not think that we can have any meeting of the Commissioners till Term begins.*

"Yours truly,

"CAMPBELL."

* *See* the Report of the Chancery Evidence Commission, my separate Report, and, in the Appendix, a Memorandum of mine, and two letters from me to Lord Chancellor Campbell.

"Stratheden House,

"24 May 1858.

"Dear Lord St. Leonards,

"Would you have the goodness, for the assistance of myself and my brother Judges in Queen's Bench, to look at the 7th Condition in the enclosed Particulars, and tell us how it ought to be construed?

The purchaser failed to comply with the Conditions, so that the deposit was forfeited. The vendor proceeded to a re-sale, and brought an action against the first purchaser, seeking to recover damages for a deficiency which arose on the re-sale, together with the expenses attending the same.

In calculating the deficiency, ought the vendor to give credit for the amount of the deposit on the first sale; or, is the deficiency to be calculated on the difference between the sum at which the premises were sold at the first sale, and on the re-sale?

We do not find the point settled by your invaluable works, and we are not aware of any

case which comes nearer it than "Palmer *v.* Temple," 9 Ad. & Ell. 508.

"Yours very truly,

"CAMPBELL."

I should hardly have felt at liberty to publish this letter if the Chief Justice, in delivering the opinion of the Court, had not stated that I took the same view with themselves.

Law students may like to see the answer: "Clearly the deposit, which is part payment, is to be brought into the account by the seller, although forfeited, so that the purchaser could never have recovered it."

APPENDIX.

14 Hansard's Debates, Third Series, p. 721.

CHANCERY SINECURES.] Sir *Edward Sugden* called the attention of the noble Lord opposite, to the filling up of the sinecure offices of the Court of Chancery, which he understood were to have been abolished. The promise to abolish them was made in that House, when the Bankruptcy Bill, which had entailed such a great and useless expense on the country, was introduced; yet he now found that they had been filled up. The greatest complaints were made when one of these offices was held by a son of Lord Eldon's, and the various offices and the various fees of the Court of Chancery were then attacked freely enough; but not one word of objection was uttered now that the money was to be received by different persons; and the offices themselves, that were then so vigorously attacked as abuses, were now quietly filled up, and filled up too, he begged to observe, after he had intimated that he should call the attention of the House to them.* He complained, besides, of the delay that had taken place in settling the salary and the retired allowances of the Chancellor. He did not wish to mix up that which was a personal matter with another and a

* I do not find any report of this.

different subject, and he had thus been prevented from moving what he should otherwise have done—the repeal of nine-tenths of the Bankrupt Act. He wished to know in what way the noble Lord opposite explained the recent appointment of Registrar of the Court of Chancery?

Lord *Althorp* regretted that the hon. and learned Gentleman had availed himself of the opportunity of putting a question, to make an attack upon the Lord Chancellor, and said, that those offices which were in the gift of the Lord Chancellor must be filled up as they became vacant, until they were legally abolished. He was desirous that the question of the Lord Chancellor's salary should be decided as soon as possible; but he had hitherto been unable to bring it forward on account of the important business already before the House.

Sir *Robert Peel* said that it was impossible to believe that the appointments in question could be otherwise than merely provisional. In the Committee appointed to inquire into what reduction could be made in salaries of offices held during the pleasure of the Crown, the Lord Chancellor himself declared his intention to abolish all sinecure offices. He thought it would be a great improvement, if the measure were extended to the Court of Chancery which was applied to other Courts, for putting an end to sinecures, and making proper compensation to the persons holding them. To show that this was the view which the Lord Chancellor himself took of the subject, he would read a passage from the evidence of the noble and learned Lord before the Committee. Being asked, "Are the Committee to understand that it is your intention to divest the office of Lord Chancellor of all sinecure situations?" he replied, "If I can obtain

the concurrence of Parliament, it is my intention to divest the office of Lord Chancellor of all the sinecures which have hitherto been given for the maintenance of his family." Under these circumstances it was impossible to consider the present appointment as more than provisional. Of course, if the sinecure offices should be abolished, the Lord Chancellor must receive a fair consideration for them.

Mr. *Hume* said, that as a member of the Committee, he could corroborate what had been said by the right hon. Baronet respecting the declared opinions and intentions of the Lord Chancellor. He was sure, therefore, that the appointment must be provisional, for the whole tenor of the noble Lord's evidence was, that the head of the Court of Chancery ought to be deprived of all sinecure appointments. As to the offices held by the son of the late Lord Chancellor, he (Mr. Hume) took it as a matter of course that the five sinecures of that Gentleman (Mr. Scott) would be abolished without delay. The Ministers were bound in honour to the House, and to the country, that all appointments of the kind were only provisional, and were accepted by the persons appointed to them, subject to the contingency of abolition or reduction, as soon as the other more pressing questions which now occupied Parliament should allow the House to take up the subject of these offices.

Sir *Charles Wetherell* said, that the salary of the Lord Chancellor ought to have been settled long ago, and that when the patronage of the Bankruptcy Court was taken from that Judge, he ought to have been compensated by an addition to his salary.

Mr. *Robinson* expressed his astonishment at the appointment, which he could not reconcile with the solemn and repeated pledges given by the Lord Chan-

cellor in favour of retrenchment and Reform. He thought this was a sorry instance of the spirit with which his Majesty's Ministers meant to fulfil their promises of economy. Was it possible that the Lord Chancellor filled up the office of Registrar without consulting his colleagues?

Mr. *Wason* was satisfied that the appointment could only be provisional. He had no doubt that Mr. William Brougham had accepted the office with the understanding that he was appointed merely to fill it up until it should be formally abolished.

Sir *Francis Burdett* was also of opinion that the appointment was only provisional; for it would be impossible to suppose that there was any intention to maintain those offices after the repeated declarations of the Lord Chancellor himself on the subject. The appointment must have been merely an official proceeding; as it was necessary to have some one in the place of Registrar until the office should have been abolished by law.

Mr. Alderman *Venables* was sure that the appointment would cause great disappointment and regret throughout the country, and would be looked upon as a breach of faith on the part of the Government.

Sir *Edward Sugden* begged that it might be understood that he had not made a personal attack upon the Lord Chancellor. He had asked the question merely to gain information.

Lord *Althorp* said, that if the hon. and learned Gentleman had not made a personal attack upon the Lord Chancellor, he did not know what a personal attack was.

Sir *Robert Peel* considered the question altogether premature. It was impossible that the appointment could have been intended to be permanent, inasmuch

as the Lord Chancellor was pledged to the abolition of all sinecure offices in his Court.

Sir *Frederick Trench* trusted that his Majesty's Ministers would take a hint from the lesson which their adversaries had generously read to them. For his part, as a plain man, he could not suppose anything else than that the appointment was intended to be permanent. He could not imagine that the Lord Chancellor's brother was put to the inconvenience of resigning his seat in Parliament for the purpose of filling provisionally an office of which the abolition was looked upon as no very remote contingency. However, he trusted that the Government would act upon the generous suggestion which had been just thrown out, and would make the appointment only provisional.

Mr. *Hume* said, that it was most probable that the Lord Chancellor had appointed his brother because he could more easily abolish an office held by him than one held by any other person. Subject dropped.

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14 Hansard's Debates, Third Series, p. 816.

CHANCERY SINECURES.] Mr. Boldero moved for a Copy of the Appointment of Clerk of the Patents and Registrar of Affidavits in the Court of Chancery.

Sir *Edward Sugden* would take that opportunity of saying a word upon what had fallen from his hon. and learned friend, the Attorney General, late last night, in reference to what he (Sir Edward Sugden) had said in the early part of the evening, on the subject of

the recent appointment in the Court of Chancery.* His hon. and learned friend seemed surprised that he should have mentioned anything relating to the Lord Chancellor in his (the Attorney General's) absence. He was sure that at whatever time the subject of the Lord Chancellor, or anything relating to him, was mentioned in that House, he could not be without friends present to attend to his interests. For his own part he had not felt it necessary to wait for the presence of the Attorney General, on the subject to which he had called the attention of the House; and the less so, as he had given notice to his hon. and learned friend, the Solicitor General, for the purpose of having it communicated to the Lord Chancellor, that it was his intention to mention the subject in the House, and this, let it be understood, was before he had any knowledge whatever that the offices in question had been filled up. Indeed, he did not know of any appointment having taken place, until he was within a few yards of the House, when he was informed of it by an hon. Member whom he met. He was anxious to set himself right with the House as to the facts of the case, as he understood that the matter had been made the subject of some remarks by the noble and learned Lord that evening in another place, some of which were directed against himself. However, he would not take any further notice of those remarks until he had them from a more authentic source. He would wait until he saw them, and would take the opportunity when the noble Lord (Lord Althorp) should bring forward his Motion respecting the Lord Chancellor's salary, when he would defend himself against the sarcasms of the noble and learned Lord, or against

* I do not find any report of it.

those of any other individual who might have attacked him.

The *Attorney General* said, he had not expressed any surprise at his hon. friend having brought forward the subject in his absence. His surprise was, that it should be brought on at all that evening, as he had understood from his hon. and learned friend, the Solicitor General, that the Lord Chancellor was to be asked respecting the office, and whether it was to be filled up. All he had done was, to express his regret that he was not present when his hon. friend had introduced the subject, and that regret he still felt; for on looking at the usual vehicles of information, as to what passed in the House, he found that the remarks which had been made were calculated to produce rather an unfavourable impression in the public mind against the noble and learned Lord. If he had been present, two minutes would not have elapsed after the statement, till he should have given such an explanation as would have at once removed from the mind of every hon. Member any unfavourable impression which the previous remarks might have made.

The *Solicitor General* said, that the impression upon his mind had been, that the places in question had not been filled up at all, nor was he aware that the inquiry intended by his hon. and learned friend the Member for St. Mawes was directed to the appointment in question. Indeed, he had been prevented, under peculiar circumstances, from seeing the Lord Chancellor upon the subject.

Sir *Edward Sugden* considered he was perfectly justified in pursuing the course which he had felt it his duty to adopt, a course which did not want precedent, it was a mere matter of inquiry or question to the Government, such as it was quite regular to make,

as he would contend, without notice. He denied that he had been guilty of anything that was inconsistent with the usual practice of the House. Similar inquiries had been made on former occasions with reference to the appointments held by many individuals without notice, and been answered without any charge of irregularity. But in fact he told the Solicitor General that he had intended to put a question in the House as to what had been done with the sinecure places held by Mr. Scott, but he had afterwards heard of Mr. James Brougham's vacating his seat, and he had then asked why this had been done, and he was not bound in courtesy to wait for the presence of the Attorney General. He should treat the Lord Chancellor in that House as the Lord Chancellor had treated him in the House of Lords, and he should bring the subject regularly forward.

Mr. *William Brougham* maintained, that if ever a question had been put that meant or was intended to convey a censure, it was the question put by the hon. and learned Gentleman, on a former occasion, without any notice. He, however, could say, with reference to the offices in question, that they had been pronounced to be absolutely necessary after a consultation upon the subject, by the Chancellor, the Master of the Rolls, and the Vice Chancellor. He must again complain of the want of notice when the subject had been before introduced, for if such notice had been given, he should have excused himself from the duties which he had to discharge elsewhere, and have been in his place to have met the question with the fullest information upon the subject. He was also certain, that such information would have sufficed to satisfy the House, that nothing had been done with regard to these appointments of which even the most

captious could complain. Such questions, conveying as they did more or less censure upon the parties to whom they referred, should not be made without notice; for though he was sure that the characters of the parties referred to in the present inquiry were above all suspicion; yet an injury might arise even if a delay of twenty-four hours should occur in answering such an inquiry, tending as it did to censure. He should hope that, on all occasions of attacks being thus personally made against individuals, whoever they might be, that notice would be given, and if such a course had in this case been pursued, he should have been ready in the first instance to meet it.

Sir *Charles Wetherell* said, that some imputations had been thrown out against his learned friend (Sir E. Sugden) of having, with reference to the question, violated the usual courtesy of debate. He (Sir C. Wetherell) saw not the slightest ground for that imputation. On the contrary, he thought that the conduct of the learned Gentleman had been perfectly open, gentlemanlike, and honourable. Many reflections had been cast on the conduct of the Lord Chancellor; but the most censorious of all who had spoken was the hon. Member for Westminster (Sir F. Burdett) who said, in the course of his observations, that he could not believe it possible the Chancellor had made any permanent appointment to the offices in question.

Lord *Althorp* was not ignorant that the appointments had been made; though, from the nature of the offices, it was not incumbent on him to be acquainted with the period of their being filled up. It was undoubtedly in the power of any Member to ask a question, whether it implied a censure or not; but from his experience of parliamentary usage, he would

say, in reference to that point, that he did not think the question which had been put, was one that should have been put without such a notice as was usually given.

Sir *Francis Burdett* said, the observation alluded to by the Member for Boroughbridge (Sir C. Wetherell) was founded on his belief, from a knowledge of the character and understanding of the Lord Chancellor, that he could not have done that which was attributed to him.

Sir *Frederick Trench* thought, that the course pursued by the hon. and learned Member for St. Mawes (Sir E. Sugden), had been perfectly courteous and decorous. What had the hon. Member done? He had merely asked a question as to the filling of certain offices, after telling the Solicitor General that he meant to ask it, and that question was one of a kind that were frequently asked without any notice whatever. It was impossible to act more honourably. The Lord Chancellor could not have wanted defenders, even in the absence of the Attorney General, when his Lordship's brother, and so many of his friends, were in the House.

Mr. *Spence* stated, that he had been instructed some time since, by the Lord Chancellor, to prepare two bills for the Reform of the Court of Chancery. One of these bills was already on the Table; the delay in bringing forward the other was attributable only to himself. It happened that the very first paragraph of that second bill (which was actually prepared) was—"Whereas it is expedient that the office of Registrar of Affidavits in the Court of Chancery be abolished." Under these circumstances, on learning the death of Mr. Scott, he thought it his duty to wait immediately on the Lord Chancellor, to ascertain whether that noble

Lord had altered his intention with respect to the office in question. The instant he mentioned the subject, the Lord Chancellor assured him most distinctly that it was his intention to bring in the Bill as it was, without the least variation as respected the abolition of that office. Indeed, the Lord Chancellor hardly allowed him to finish his sentence before he stopped him with this assurance. He must further say, that it was on Tuesday, the 10th of July, when he moved for leave to bring in his Bill, that he had an inverview with the Lord Chancellor, when he stated, as appears in the reports of the debate, that it was his intention as soon as possible to bring in the Bill he had drawn, for regulating the officers, &c., but the Chancellor wished that a clause should be added, for constituting an appellate Court, and desired him to add such a clause, and when that was done he would immediately bring in the Bill. The delay in bringing in the Bill between the time of the office of Registrar of Affidavits becoming vacant, and the period of the depending discussion, was attributable to him, and not to the Chancellor. The Master of the Rolls, and others who were consulted on the subject, gave it as their opinion, that the offices should for the present be filled up, because there were important duties to be performed by the deputies, and it was necessary those deputies should have a principal.

Mr. *Boldero* said, a plain question had been asked last night, and it had received no answer. He knew nothing of the Lord Chancellor, or his affairs, or connections, but finding that a plain question was not answered, he felt it his duty to move for a return of the appointments. There was nothing in that either singular or unbecoming, and perhaps its best defence was to be found in the fact, that the Lord Chancellor's

friends admitted the offices to be useless ones, and that they ought to be abolished.

Sir *Edward Sugden* observed, that the learned Gentleman (the Solicitor General) had been the organ through which he had hitherto communicated any of his motions with respect to the Lord Chancellor or his Court; but if that was not the regular one, he must choose another for the future.

Motion agreed to.

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14 Hansard's Debates, Third Series, p. 827.

CHANCERY SINECURES.] Lord Althorp moved the Order of the Day for the House to resolve itself into a Committee of Ways and Means.

Sir *Edward Sugden*: I must beg, Sir, to take this opportunity of claiming the attention of the House for a short time, while I refer to a subject in which I am deeply interested. I find that, in another place, a noble and learned Lord, in the course of some observations made with reference to my conduct, has thought fit to use expressions towards me, which no gentleman, who has a regard for his own personal honour, nor anyone whose acts could be influenced by personal fear, would have ventured to direct towards any other gentleman. These expressions are so far removed from anything that one meets with in society—they are so different from what one should expect from a person of his exalted station, and especially from that place in which he ought to set an example of decorum to all others—that, with reference to the person by whom they were uttered, and the place in which they were uttered, they are either so degrading to the person making the attack, or to the person against whom that attack is levelled, that——

Mr. *Stanley* rose to order, and gave his reasons.*

Sir *Edward Sugden*: I know not, Sir, the meaning of this interruption. I dare say, that no one of those with whom the noble and learned Lord is connected in this House, felt the slightest degree of regret at the charge made against me in another place. I dare say, that they——

The *Speaker* held I was out of order, and gave his reasons.

Sir *Edward Sugden:* I am always most ready, Sir, to yield obedience to you. I have always been most obedient to the Orders of this House, and I am happy to say, that I have always found it very indulgent. In the short period during which I have been a Member of this House, I have never seen a desire on the part of the party to whom an offending Member belonged, to deny to the party offended the right of answering any attack made upon him. That right, however, is now denied me. I have been deeply offended. It is impossible that one Gentleman could have been more deeply offended than I have been offended on this occasion, and yet the right hon. Gentleman has refused when the defence is to be heard —he has refused to hear me. I was not out of order, Sir. I should not have been out of order, had I been allowed to proceed. The right hon. Gentleman has put me wrong by the observations he has made; if he had not risen to order, to give his representations of what I was saying, I should not have been out of order: that I am so is, therefore, owing to him. By him I have been prevented from making observations, which I had as good a right to make here as the noble Lord had a right to make them in another place.

* *See* the note to p. 21, *supra.*

If dignified conduct and silence are to be observed, why are they not recommended to the noble and learned Lord? and if he knows not how to restrain himself from making charges, surely the person against whom he makes them may be allowed to defend himself against those charges. If restraint is to be practised, why does not he put a bridle on his expressions? I have been personally insulted and abused in the grossest manner, by the use of offensive epithets from a vulgar vocabulary in language, which no private gentleman should utter on the one hand, or submit to on the other; and yet I am not to be allowed to answer this abuse; but I am to be told, that, if I attempt to do so, I am breaking through the privileges of this and the other House of Parliament. As regards the language, I shall carefully abstain from following the example that has been set me. I have always spoken of the noble and learned Lord and of his conduct, publicly, openly, and manfully, never using, with respect to him, any expression that any one man could take exception to; and I will now only say, that these observations, let them be made when they will and how they will, shall never prevent me from investigating charges which I think ought to be made against the public conduct of any man. On the occasion in question, however, I made no charge—I only asked for information. I never used towards the noble and learned Lord, of whose public conduct I was then speaking, one disrespectful expression; and if I were now to do otherwise, I should but imitate his conduct. That noble and learned Lord has attacked me in a place in which I cannot answer him; the place where the attack was made rendered it improper—it was doubly so, as in no place can I answer him, for he presides as the Judge in the Court in

which I chiefly practise, and there I shall not attempt to answer him; for however I may have lost, as I have lost, all respect for his person, I am yet bound to silence by the respect I entertain for his office. I must, however, when addressing him, feel sensible that I am addressing a man who has forgotten how to act towards me as one gentleman should act towards another. I must say, that, in my absence, he has used words towards me which no gentleman would have ventured to use towards me in my presence. I am not open to such observations—I have never done anything to deserve them. They are painful to a man's family—they are disagreeable to his children—they give pain to his friends, and the more so, as the situation of the person uttering them exempts him from all responsibility for his conduct. I must say, for once and for ever, that I have lost all personal respect for the person who used these expressions [*hear, hear!*].

Mr. *Stanley:* I must be allowed to say, Sir, that I had no wish whatever to interfere with the explanation of the hon. and learned Gentleman; but I must say, that when he denies having made a charge on the former occasion against the noble and learned Lord, I do not understand him. I think that it was a charge, and a personal charge, which he then made; it was a charge most disgraceful, if true, and if not well-founded, it was one which ought not to have been made except upon the fullest and the fairest deliberation, and, after the amplest opportunity afforded to the party accused, to appear by himself or his friends to answer the charge. I say, that the noble and learned Lord's conduct was made the subject of a serious charge, and he took the opportunity of vindicating himself in the other House; and, in doing so, he stated, that the charge made against him was

one that imputed motives, for which imputation there was no charge whatever. The noble and learned Lord, in another place, only exercised that right which the hon. and learned Gentleman claims for himself here—of taking an opportunity of explaining and vindicating his conduct; and he does this in a manner which cannot fail to convince any dispassionate man in the kingdom, that the charge brought against him by the hon. and learned Gentleman was utterly destitute of foundation. The noble and learned Lord did this so, as at once to convince ninety-nine men out of a hundred, that the charge brought against him was utterly groundless. The noble and learned Lord rose, not to attack the hon. and learned Gentleman, but to vindicate his own character from a matter of charge and accusation that had been preferred against him; and it appears that in this vindication he has said something offensive to the hon. and learned Gentleman. If the noble and learned Lord had brought any charge against the hon. and learned Gentleman as a professtional man or a gentleman, then he would be entitled to exculpate himself in this House. But the hon. and learned Gentleman does not accuse the noble Lord of having done so; he merely complains of certain expressions, which he has not stated to the House, as having been used towards him in another place, and has gone on making comments on those expressions; but the nature of them he has not stated. The hon. and learned Gentleman has made the observations we have just heard; but they are in answer to no charge preferred against him; and he himself has not mentioned any such charge, nor has he specified even a single expression, but has gone on making comments on expressions of which he has complained, but of the nature of which he cannot

give us the least idea. Recollecting the important business which is about to come before the House, I called the hon. and learned Member to order. If the hon. and learned Gentleman, when complaining of the strong language of an individual in another place, is to get up, and, in his own justification, use stronger expressions, there is an end to the dignity which generally characterizes the proceedings of Parliament. For these reasons, I expressed my regret that he did not confine himself to replying to the charge, whatever it might be; and, in defence against a charge, I would be the last man to offer any interruption. When I saw that the object of the hon. and learned Gentleman was to resort to invective, and to use strong expressions and harsh language, in reply to the expressions and language he complained of, and the only effect of which would be to waste the time of the House, I though that it was time to interfere, and I feel that I was perfectly justified in the course which I then took. The speech of the hon. and learned Gentleman was not a defence against a charge, but was a recriminatory attack against strong language, which he supposed to have been used in another place. I will leave it to the House to determine how far I was justified in interrupting the hon. and learned Gentleman; but I then thought, as I still think, that I was only acting in conformity with the rules of the House in doing so.

Sir *Robert Peel:* I have just read the expressions of which my hon. and learned friend complains, and I have read them with the greatest pain.

Mr. *Stanley* (interrupting the right hon. Baronet) said: I have seen the noble and learned Lord this morning, and he complains of the manner in which he is reported.

Sir *Robert Peel:* I only know them from the reports in the public journals, and, until I hear them contradicted, I must believe them correct. I must say, Sir, I think this is a matter of deep importance, not only as it affects my hon. and learned friend, who, in my opinion, has shown a very proper sense of what is due to himself in the notice he has taken of these expressions, but it is a matter of importance as it affects the privileges of Parliament. Of the noble Lord who has made use of these expressions, no expression ever fell from me calculated to convey a feeling of disrespect towards him. On the occasion to which the present discussion refers, it will be recollected that I recommended the House to abstain from further discussion, for that I was convinced the noble Lord would be able to explain satisfactorily what he had done. I stated, that having heard the noble Lord's evidence given with respect to those offices, I was satisfied that the appointment which he had made was only provisional, and that he meant to abolish the offices in question; but still I heard nothing in the speech of the hon. and learned Gentleman which was at all inconsistent with the performance of his public duties as a Member of this House, or which called for those observations of which he now complains. Two offices, notorious sinecures, fell vacant, and, notwithstanding the declaration of the Lord Chancellor, that he intended to abolish them on the first vacancy, they were filled up. When the appointments were made, what was more natural than an hon. Member of this House should ask for some information respecting those appointments, and comment upon the proceeding? In former times, and when the noble and learned Lord was a Member of this House, not a moment would have been lost in putting such a ques-

tion. That question was no attack on the individual Peer, but an inquiry into the public conduct of the Government. Answers were given to that question, and, in another place, that noble and learned Lord himself, presiding in the place in which he gave the answer, the Chief Judge of that Bench in whose Courts these appointments had taken place, described the Member of Parliament who put the question in a manner which would effectually deter many individuals, shrinking from abuse, and from the power of that sarcasm, which, we all know, he can so irresistibly wield, from the performance of that duty which, as Members of Parliament, they are bound to discharge. When the Member, too, against whom these attacks are directed, is a Gentleman practising in the Court in which the noble Lord presides, it becomes highly probable, that if they do not influence him to abandon his duty, they will operate to his serious prejudice, and might occasion the ruin of any professional man who did not happen to be of the first-rate eminence. My respect for that noble Lord, and my admiration for his abilities, prevent me from quoting those opprobrious epithets which he is said to have used. "Crawling reptile," and "insect" of a certain sort, are the terms which I may mention, and from the use of which I may leave the House to judge what are the rest. I agree, however, fully with the right hon. Secretary, that nothing can be more inconvenient than to refer to the proceedings of the other House of Parliament; but, if the use of such expressions is to be allowed, what situation are we in? How are we to perform our duties in this House, if we are liable to be abused for so doing by the noble and learned Peer who presides over the other branch of the Legislature. Either the right hon. Gentleman

must not interfere when a Member is defending himself from attacks of this sort, or the Member must submit to suffer from the use of these opprobrious epithets. I say again, that I deeply regret the noble and learned Lord should so far have forgotten himself, as he must have done, when he trenched in this manner on the privileges of this House, and interfered with the performance of the duties of a Member of Parliament, by holding him up to public reproof and reprobation, in terms so offensive that no man can submit to them without uttering his decided protest against them. The right hon. Gentleman calls in question the accuracy of the report. I hope he will be found to be justified in doing so. It is a report in *The Times* newspaper, and, in one respect, it has the appearance of accuracy—it is very elaborately given. Still, however, I should rather hope that it is incorrect and spurious, than believe that the noble Lord would have used the privilege of his station to make the attack on my hon. and learned friend in the terms which he is represented to have used.

Lord *Althorp:* The noble and learned Lord called on me to say, that the report in that paper, and in another paper, was very incorrect. I do not know in what respect the report was incorrect. I shall take this opportunity of saying, that however justifiable may have been the use of any expressions, or of any explanations, under particular circumstances, it is utterly impossible, consistently with order in our proceedings, that, from day to day, strong expressions should be bandied about from one place to another. I have not read the expressions that are now the subject of discussion, and I can only say, that my noble friend complains of the incorrectness with which his observations were given.

Mr. *Goulburn* had read the report in question with the same feelings as his right hon. friend. He hoped that inaccuracy in the report would account for those expressions, of which his hon. and learned friend complained. However, he could not but think that it would not have ill become the character of the noble and learned Lord to have taken the earliest opportunity of assuring the victim of those expressions, that they had been misrepresented; and the question of their accuracy would depend a great deal, in his mind, on the fact that the noble Lord made the first explanation to those who heard them, and satisfied them that the expressions were not those which he used. If the noble Lord omitted that—if he did not take the first opportunity in the place where the calumnious expressions were said to have been used, to satisfy the victim that they never had been used, there could be but one inference drawn from the omission. The question was of the very highest importance, and it involved the point, whether the Members of that House were to be checked in making inquiries into public matters, by the dread of drawing down upon themseves language which no gentleman would suffer to be applied to him. If this were to be the case, there was an end to the discharge of one of the most important duties of a Member of Parliament—the duty of questioning a Minister upon any proceedings supposed to be under contemplation. He begged the hon. Gentlemen who heard him to recollect, that when the present Lord Chancellor was a Member of that House, he took precisely the same course of inquiry, with reference to appointments which were supposed to be making, or to have been made, as that which had been taken by the learned Member for St. Mawes. Did that noble Lord, on any such occasion, ever suppose, that, be-

cause he asked a question, it was competent for any person in the other House to cast upon him imputations which no man would dare to cast upon him from any other situation? He would not pursue the question any further, and he was willing to trust that the report in the newspapers was incorrect, and misrepresented the words of the noble and learned Lord. He trusted that the noble and learned Lord would feel himself bound to give his hon. and learned friend (the Member for St. Mawes) that full satisfaction which he had a right to demand. The noble Lord ought to explain these expressions in the place in they were first used.

The *Attorney General*: I was not in the House, Sir, when this matter was for the third time brought before it. I was about to apologise, Sir, for having been absent during a part of this discussion, so that to only a part of it could I reply. I must say, that, in the first place, it appears to me singular that this complaint should be made in this House of Parliament, where we cannot properly know what has passed in another place—where, whatever occurred, must have occurred in the presence of many friends of the hon. and learned Member for St. Mawes. Those friends did not complain of the expressions used by the Lord Chancellor; and not only they did not complain, but they expressed their approbation of what the Lord Chancellor then uttered. That fact seems to me sufficient to show, that what was then uttered by no means deserves the attacks that have been made on it this evening. What was the conduct of the hon. and learned Gentleman in this House on the occasion that gave rise to the remarks of which he now complains? He put a question respecting the appointment to certain offices in the Court of Chan-

cery. That question was put without notice, and a remark was made that the offices were then filled—that he had been prevented, by the course taken by the Lord Chancellor, from putting the question before; but that if he had put it before, the vacancies never could have been allowed to have been filled up. This matter was brought on in the absence of my hon. and learned friend the Solicitor General, to whom, it seems, some kind of notice of the intended question had been given—it was brought on in my absence, and in the absence of my hon. and learned friend, the Member for Ripon, and of any one who could at the moment have given an answer for the Lord Chancellor. If the question had been put in the presence of either of my hon. and learned friends or myself, there would have been given that answer, the want of which made it a subject of one of the most invidious attacks that can well be conceived on the conduct of anyone. This was followed by getting a book from the Library, and reading extracts from former speeches of the Lord Chancellor, and contrasting them with what was described as totally different, namely, his present conduct. Except in the way of attack, how came it to be said, that the public would hear with regret of these appointments? I repeat, that if that question had been put while any man able to answer it had been present,—any one possessed of knowledge of the fact—there could have been none of these subsequent differences. I think we have a right to express our regret, with reference to the courtesy used among gentlemen, that the question was not put in a manner that would have prevented these unpleasant discussions. I repeat, that had anyone acquainted with the facts been present, these things might have been avoided. The Lord

Chancellor, when a Member of this House, was, I know, in the habit of putting such questions on all occasions on which he felt it his duty to do so; but he always put them openly and manfully, and gave the parties concerned the full means of knowing when they would be put, and of being prepared with their answers. In the present case, the Lord Chancellor meant to abolish the offices before they fell vacant. The bill of my hon. and learned friend the Member for Ripon had been prepared, and the first line of that Bill declared that they were to be abolished. When they fell vacant, the Lord Chancellor had a communication with my hon. and learned friend, and distinctly declared that the change which put the appointments into his hands made no change as to his arrangements. His words were—"Let the offices of Patent Registrar be at once abolished." Under these circumstances, the attack on him was, in my mind, most unjustifiable; and it was the more to be regretted, when it is considered that if the question had been put in a proper manner, the explanation might have been instant and complete.

Sir *Robert Peel* repeated, that what he had said on the former evening was, that he thought it very possible that there might be duties attached to those offices, which rendered it necessary that the appointments should be made; but he did not believe that it was the intention of the Lord Chancellor to make the appointments permanent. He could not say, what the hon. Member for Worcester might have intended to say; but he knew, that an hon. and gallant friend of his got up, and said that he differed from him, and that he thought that the appointment was intended to be permanent. When the hon. Baronet opposite (the Member for Westminster) said the appointment would

only be provisional, he expressed his concurrence in that opinion, and declared, that, from what the Lord Chancellor had frequently said, it was impossible that the appointment could be permanent. He, at all events, could not be accused of having made an attack upon the Lord Chancellor. On the contrary, he had asserted, that if those offices were abolished, the Lord Chancellor ought to be compensated for the loss of patronage.

The *Attorney General* had judged simply from what he saw in the newspapers. He knew it was not possible to catch the exact words of a speaker; but he considered the report to be substantially correct. He looked upon what had fallen from the right hon. Baronet as an additional proof of the inconvenience of such questions being put in such a manner.

Sir *Robert Peel* repeated, that he had always insisted that compensation ought to be given to the Lord Chancellor, if offices in his patronage are abolished.

Sir *Robert Inglis* thought that the attack which had been made upon his hon. and learned friend was more injurious to the reputation of the person from whom the attack came, than to the person attacked. But if such attacks upon Members of the House of Commons were permitted to pass unnoticed by the House, then the independence of the Members was at an end. Another noble and learned Lord, from another part of the kingdom, had made a similar attack upon another Member of the House of Commons in language which no gentleman in England would apply to another. On the same principle on which he now complained of the attack made upon his hon. and learned friend, he had on a former occasion taken the liberty to reprehend an attack made upon the late Lord Chancellor, by the noble and learned Lord, who was then Mr. Brougham,

and a Member of that House. He said then, as he said now, that it was improper and unjust to make an attack upon an absent person who had no means of defending himself or vindicating his character. If the noble and learned Lord denied that he had used the language attributed to him, he ought to contradict the report, in the presence of those who heard him, at the time. But, until he should have done so, his hon. and learned friend had a right to stand up in that House and complain of the attempt which had been made to interfere with the independent discharge of his duties as a Member of Parliament. No station, however exalted, could justify such an attack.

Mr. *Macaulay* said, that every Gentleman in that House must be aware that, however accurate the reports in the newspapers generally might be, it was impossible to expect that they should give the exact words of a speaker. Now, the whole of the present discussion respected words—he might say syllables. If the words complained of had been used by the Lord Chancellor, he was sure that some of the Members of the other House, present at the time, would have remarked upon them; and he thought it was evident that no such language was used, from the fact that the only remark which the observations of the Lord Chancellor elicited from any of the noble friends of the hon. and learned Member for St. Mawes was the statement of Lord Eldon, that he had read the speech of his hon. and learned friend (Sir Edward Sugden) with the greatest concern. Now, the facts of the case were these: an attack had been made upon the Lord Chancellor in the most ungracious manner—an imputation was thrown out that he had been guilty of a most indecent, and (as it would be in him) a most dishonest proceeding; and this attack was made upon

h im at the very moment when the noble and learned Lord was making a great sacrifice to the public interest. Was it to be wondered at, then, that he felt hurt, and expressed his indignation warmly, and, perhaps in the contemptuous language which he might naturally think was called for by such an attack? Hon. Gentlemen on the other side seemed to forget altogether, that the provocation came first from the hon. and learned Member for St. Mawes.

Sir *Charles Wetherell* might have supposed, from what had been said by his learned and hon. friend on the Treasury Bench, that instead of his being the Attorney General, he had been some Major General. His learned friend had done nothing but attempt what a military gentleman often attempted. He had endeavoured to get an advantage over his adversaries by making a diversion. He had said, that his hon. and learned friend, the Member for St. Mawes, had given a great provocation to the Lord Chancellor; but he (Sir Charles Wetherell) would contend that the question relative to the appointment was not, in a parliamentary sense, or in any sense of one gentleman speaking of another, to be considered in the light of a provocation. Since he had been a Member of that House, when public offices were about to be filled up, he had repeatedly heard questions put, upon the propriety or fact of filling them, and such questions were always put without the ceremony of any previous notice, although the hon. Member who put the question might mean clearly to insinuate that, if the places had been filled, they had been given unnecessarily and improperly. Surely, in a parliamentary sense, he was not to be told by a Lord Chancellor, or by any man, that if a Member of that House put a question, which, if answered affirmatively, would involve, in the

opinion of him who put the question, a censure against one of the Ministers, he had done wrong if he had not previously given notice of his intention to put that question. But, however, in the present instance, the question had not been put without notice having been previously given. His Majesty's Solicitor General had been present when the question had been put, and his learned friend (the Member for St. Mawes) had previously communicated to the Solicitor General that it was his intention to put that question. In his opinion, therefore, his hon. and learned friend had done everything which he ought to have done, in communicating to the Solicitor General that he intended to put the question to the Treasury Benches relative to the filling up of the places. Not only had the Solicitor General told the House that such had been the communication made to him, but he had even avowed that he had forgotten to speak to the Lord Chancellor on the subject. Really a person might be led to suppose that the case was of such high importance, that, like the question of the Russian Dutch Loan, it required a secret consultation upon it before it could be mentioned in the House of Commons. He would say, at once, that his learned friend had never faltered—had never been backward in anything which became a gentleman and a man of the highest honour. No man had ever known his hon. friend to be peccant or defective in anything that became a gentleman, and if there had been any faltering in not making this communication to the Lord Chancellor, it was quite palpable that the whole error had rested with the Solicitor General. The next point that had been adverted to was, whether the report in question were, or were not, accurate. His hon. and learned friend had said, that the report was not accurate. He

had read over *The Times* of that morning, and he remarked that, in addition to a report, it contained a commentary on the report. And as to the accuracy of this paper, he could not bring himself to think, that a journal to which eminent men, who were now eminent lawyers—ay, and eminent Lords—had formerly been in the habit of contributing—he could not, animated as it had been by the flashes of their wit and the flow of their genius, think of looking to *The Times* newspaper as a peculiar magazine of errors and inaccuracies. If a man said anything peculiarly sarcastic—peculiarly stringent—keenly cauterizing, it was not to *The Times* newspaper he should look for any inaccuracy in relating it. This, at all events, was the first occasion on which *The Times* had failed to do justice to the manner and scope of the noble and learned Lord. It had been said that there might be mistakes in the words of the report. True, so there might; and, perhaps, the paper in question never caught the Επεα Πτεροεντα of Lord Brougham. There was, however, in nature a class of animals denominated reptiles. He did not know how many were the subdivisions of the class, but he supposed that three or four kinds of the reptile tribe had been showered on the head of his hon. and learned friend. And how had this taken place? How had it happened that the Lord Chancellor should pour down upon the head of one of the leading members of the Court of Chancery, his vocabulary—he would not say of abuse, he would employ a stronger phrase—his vocabulary of calumny reported in the public papers? His hon. and learned friend, the Attorney General must permit him to say, that if such things were tolerated, there would not only be an end of the independence of any member of the Bar,

but of the independence of any Member of that House. He would beg hon. Members to consider how the error, if it were an error, could have taken place. The Lord Chancellor, be it remembered, did not speak from the Woolsack. He stepped forward and poured out, at considerable length, upon his learned friend formerly the Solicitor General for his Majesty, that vocabulary of abuse, or of calumny, which was now supposed to be incorrectly reported in the public press. The hon. Gentleman opposite had said, that when the Member for St. Mawes was attacked, his friends and the Duke of Wellington were present. Now he (Sir Charles Wetherell) did not suppose that his Grace the Duke of Wellington was particularly well acquainted with the interior of the Affidavit Office of the Court of Chancery. But, then, there was the Earl of Eldon in the House of Peers, and the Lord Chancellor must have forgotten that when he was a Member of the House of Commons he was always in the habit of attacking Lord Eldon. Such arguments might do very well as the peroration of a speech before a jury, but that House was not to be told that, because Lord Eldon and the friends of the hon. Member for St. Mawes were present in the House of Peers, the Lord Chancellor might, therefore, pour out his torrents of abuse as he pleased. The right hon. Gentleman the Secretary for Ireland had indeed said, that ninety-nine persons out of every hundred were satisfied with Lord Brougham; but he would tell that right hon. Gentleman what everybody but himself well knew, that the proportion between the satisfied and the dissatisfied was in the inverse ratio. Ninety-nine out of every hundred were not satisfied. The right hon. Baronet (the Member for Tamworth) had been fallen foul of by the Attorney General for taking this report as the correct report of

the speech. When the Lord Chancellor was examined before the Committee of that House, these offices of the Court of Chancery were recommended by him to be abolished, and yet when they became vacant he filled them up; and all the question asked by the hon. Member for St. Mawes was, were they filled up provisionally or not? Was the person filling them bound to consider himself a trustee for the public, and liable to be turned out even the next day. Lord Brougham had not answered that question. Lord Brougham ought to have taken an obligation from the person he appointed, that when the place was abolished he should give it up without any claim upon the public for vested interests. The only material question which Lord Brougham ought to have answered he had not answered. All he had condescended to say was merely, that he had put his brother into the office because he was under his control. Let any man now get up and say whether Lord Brougham had or had not given this office to his brother under a condition, that if Parliament abolished the places, he should yield them up, and have no right or claim whatever to any compensation.

The *Attorney General*: It is so.

Sir *Charles Wetherell* continued. It was said so now; but what a posthumous saying.

Mr. *William Brougham*: The learned Member was really arguing hypothetically, and occupying the time of the House in vain. The Lord Chancellor had clearly stated, that it was necessary to fill up the vacant offices, for, otherwise, certain deeds could not be entered, and he had put his brother into the situation because he was a person in whom he could place the most perfect reliance as to his throwing up the places at the instant, if Parliament thought fit to

abolish them; and, in that case, not one single word would be heard about vested interests.

Sir *Charles Wetherell* resumed. The hon. and learned Member was only attempting to put right a person who was already right. All that the Lord Chancellor had said, was, that he had appointed his brother because he had over him a control. Nothing whatever was said of vested rights.

Mr. *W. Brougham*: Certainly there was.

Sir *Charles Wetherell*: The most certain person might be uncertain, as well as that the most certain reporter might be incorrect. The noble Lord had said at the same time, that he had a right to fill up the office, which was not consistent with his having said what he was reported to have said respecting vested rights. The consequence or the inference from the proposition was, that he had a right to fill up the office, with all the emoluments and vested interests belonging to it.

Mr. *William Brougham*: No, no, no.

Sir *Charles Wetherell*: The hon. and learned Member might shake his head, but he would not shake him from his argument. His report of the conversation was by far more incorrect than the report of the speech in *The Times*. He (Sir Charles Wetherell) would repeat, that Lord Brougham had said nothing of the sort attributed to him by the hon. and learned Member for Southwark, and the supposition was altogether inconsistent. Now, his hon. and didactic friend, the Attorney General, complained that he was not present when the question was put; but he must say that everything which could be done, everything that was due from one gentleman to another, had been done by his hon. and learned friend the Member for St. Mawes. The language and sarcasm which had

been thrown out by the noble and learned Lord in another place were of a nature utterly to extinguish many men who might be less competent to maintain themselves, either as men of honour or of professional standing, than the hon. and learned Gentleman was. He would say, that such language used elsewhere would go to demolish a man, not only as a Member of Parliament, but as a private gentleman. He differed materially from the hon. Member for Calne, who had said that provocation had been given sufficient to bring out a strong blow. It had been argued that the question was not to be put without notice, but he well remembered when the right hon. Baronet opposite, (his friend, he believed he might call him) now First Lord of the Admiralty, sat on his (Sir Charles Wetherell's) side of the House, he was very prone to put questions upon all occasions, in common with his hon. friend. If there was an appointment to which a salary of 100 *l.* or 300 *l.* a-year attached, or if my Lord Bathurst had a son, or any relation put into any public situation, then there was such catechising, aye, such cheerings, and queryings too—aye, he would say, such queryings as never were known, and which were certainly much out of place. Questions were put, and upon a mere verbal promise made in Committee, regular discussions were entered into. But, in the present instance, there was a case of a particular nature, about which it was proper to ask questions; and would the House of Commons allow a man, an hon. and learned Member of the House, to be put down by the anvil in the smithy of the noble and learned Lord? Absurd! Would they permit him to be crushed by this Vulcan-like force played upon him elsewhere? If the House did allow this, he would

say, they would demolish the independent spirit of the House.

Mr. *Robinson* had said, on a former evening, that he took no part in the discussion, until he heard a noble Member of the Government say that he knew nothing about the appointment, and that he was not able to give any answer. He thought that no one had a right to complain of his putting his *veto* upon the filling up of an office which all parties allowed to be unnecessary. He would ask, was it ever known in that House, that it was not proper for any Member of that House to ask such questions? Whatever inconvenience might have arisen from the discussion of that evening, it was altogether to be attributed to the line of conduct adopted by the Lord Chancellor in the other House; who, not satisfied with making the explanation which he was called upon to make in his own defence, had stepped out of his way to cast imputations upon a Member of the House of Commons, in a manner peculiarly offensive. If the House was not prepared to surrender the independence of its Members to the Lord Chancellor, it would not suffer such conduct to pass unnoticed. If such proceedings were allowed to go on, it would be necessary at last to adopt serious measures to check them.

Mr. *Ridley Colborne* confirmed what had been said respecting the explanation of the Lord Chancellor, and added that the noble and learned Lord further said, that he did not believe that his brother would hold the office a sufficient time to reimburse himself by the fees, for the expenses to which he had been put in accepting it. He trusted that the discussion would be carried on no longer.

Lord *John Russell* said, I should not have entered into the discussion, had not hon. Gentlemen opposite

thought proper to do that which is not generally done, by attacking the noble and learned Lord Chancellor, for language attributed to him in a newspaper, and in some measure disclaimed for him; at the same time that they say nothing of the substance of his explanation respecting the offices which he has given to his brother, but speak as if he had not given any reply to the charges brought against him. I beg to remind them, that the substance of his defence was this—that he still maintained the opinion that those offices ought to be abolished; that he had prepared a Bill for the abolition of them, which he had not yet had an opportunity of bringing forward; and that, as there were certain duties which some one must perform so long as the offices existed, he had given them to his brother, as a person in whom he could place the most perfect confidence, and who would not claim compensation on the ground of vested rights, whenever the Legislature should make the necessary regulations for the abolition of the office. If that be not an answer to the charges brought against my noble and learned friend, I know not what answer could satisfy the constitutional and parliamentary jealousy of hon. Gentlemen opposite. Some Gentlemen have laid much stress upon the words of the Lord Chancellor, that he had a right to make these appointments. Surely, I say, when his filling up the offices was made the subject of a grave accusation against him, by a Member of the House of Commons, he could not very well do otherwise than assert, in his vindication, that he had a right to make the appointment. It is not fair dealing on the part of the hon. Member for Worcester, and other hon. Gentlemen, to say that we find fault with them for asking a question respecting the filling

up of any office which may have become vacant. We do no such thing. It is the right of every Member of this House to ask such questions, even if, in doing so, he should exceed a little, in constitutional and parliamentary jealousy. We have not complained, Sir, that questions were put, such as we ourselves were accustomed to put, when we sat upon the other side of the House. Every Gentleman in this House has a right to put such questions; but, perhaps, some Gentlemen opposite, from not having had so much experience in opposition as we had, from not having served so long an apprenticeship as we served, have not yet learned to put their questions in a proper manner. Thus it was, perhaps, that the hon. and learned Member for St. Mawes put his question in such a way that, as my noble friend the Chancellor of the Exchequer remarked in his reply, it was impossible to pick the question out of the invective which surrounded it. When the hon. and learned Gentleman was accused of having made a violent philippic, he denied the charge, intimating, that if he did not deliver a violent philippic last night, he would take an early opportunity of doing so. I cannot help thinking that the whole of this debate would have been avoided, if the hon. and learned Gentleman had contented himself with asking a simple question about the continuation of the office in question, or the compensation connected therewith. If he had done this, he would not this evening have had to complain of the language he supposes to have been used by the Lord Chancellor; and, in my opinion, so far from what has taken place, acting in future as an impediment to questions being put, I think it will only prove a useful precedent for inducing Gentleman to ask real *bonâ*

fair questions, and not to take the advantage of no one being present to answer them, for spreading latent accusations against those who are absent.

Sir *Henry Hardinge:* It appears to me that the lecture we have just heard from the noble Lord has been delivered for the purpose of preventing any similar questions being ever again asked in this House. The greater part of the noble Lord's speech referred to the vindication of the noble and learned Lord; but no one has found fault with the noble and learned Lord for entering into that vindication. The complaint of my hon. and learned friend referred to the terms of which the Lord Chancellor thought proper to make use in the course of that vindication; and, for myself I beg to say, that I think that those terms were excessively indecent, and that the language was of a most opprobrious kind. When we look at what certain members of the present Cabinet have done, are we, indeed, bound to suppose they are so very immaculate on the subject of sinecures? I remember, that, according to the Report on the Civil List, the Lord Privy Seal said, that he found so little to do in his office, that he really could not think of touching any of the fees, or of taking any of the salary; the Postmaster General also stated that he could, on no account, take his salary, when he saw his neighbours round Goodwood suffering so much from the distressed state of the country; and yet now both these noble Lords were in the receipt of their salaries, and had, therefore, shown that they were not altogether free from human infirmity. In my opinion, the question of my hon. and learned friend was quite fair; all that he did was, to ask whether this sinecure office was to be given up, or not, and to that question no Cabinet Minister had been able to give an answer. Under

these circumstances, I think that my hon. and learned friend has a most decided right to complain of the Lord Chancellor having used terms so indecent and improper. The noble Lord (Althorp) has rightly said, that he thinks it wrong for the Members of the two Houses of Parliament to be bandying phrases, and to irritate each other by accusation on one side, and recrimination on the other. In that opinion I quite agree with him. But is this an isolated case? Quite the contrary. The Lord Chancellor of Ireland, follow-the example of the Lord Chancellor of Great Britain, took an opportunity last night of attacking the hon. Member for Dundalk, and of stating that that hon. Gentleman had rendered himself odious as a Member of Parliament to his constituents. How dare the Lord Chancellor of Ireland make that accusation, in the absence of the hon. Gentleman? And yet, with such violations of decorum as these staring us in the face, we are to be told, forsooth, that it is indecent to ask what I assert to have been a strictly parliamentary question. To what do these examples amount? Here we have the Lord Chancellor of England, high on account of his station, and still higher on account of his abilities, in conjunction with another noble and learned Lord, pursuing a course directly opposite to their duties as Peers of Parliament; a course, too, which, if not resisted, must put an end to the freedom of debate in this House. Reference has been made in the course of the debate to the Duke of Wellington not having taken any notice of the expressions made use of last night by the Lord Chancellor. Now, I beg to say, that I am satisfied that if my noble friend had been aware of the manner in which my hon. and learned friend put the question in this House, and if he distinctly heard the epithets applied to my hon. and

learned friend by the Lord Chancellor, I know the gallant nature of my noble friend, and his steady friendship to my hon. and learned friend, too well to believe that he would, for a moment, have allowed such expressions to pass unnoticed.

Mr. *Robert Palmer* thought that too much time had already been occupied by this debate. If the Lord Chancellor had used the expressions imputed to him, no one could help regretting it; but he (Mr. Palmer) must confess that he could not bring himself to believe that those terms had been made use of.

Order of the Day read.

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